

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
MARCH 3, 2011**

The Bismarck Board of Adjustment met on March 3, 2011 at 4:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Board members present were Blair Ihmels, Dean Conrad, Ken Heier, and Jeff Ubl.

Members absent were Jennifer Clark and Michael Marback.

Staff members present were Ray Ziegler (Building Official), Gregg Greenquist (Planner), and Kim Riepl (Office Assistant).

Others present were Scott Lunneborg, Mandan; Gary Johnsrud, Glenwood, MN; and Dave Patience and Jake Axtman, both of Swenson, Hagen & Co., Bismarck.

MINUTES

Mr. Ihmels asked for consideration of the November 4, 2010 minutes.

MOTION: A motion was made by Mr. Ubl and seconded by Mr. Conrad to approve the minutes of the November 4, 2010, meeting as presented. With all members voting in favor, the minutes were approved.

VARIANCE – NORTHERN METAL RECYCLING FACILITY –225 S. 26TH STREET

Mr. Ihmels stated the applicant was requesting a variance to reduce the front yard setback from 15-feet to 7-feet for the purpose of constructing a fence.

Dave Patience provided a brief background on the Northern Metal Recycling Facility project, explaining the reason for this variance request and how it relates to their application for a special use permit as a condition of approval.

Jake Axtman displayed a copy of the site plan which portrayed both the existing features of the site and those being proposed. He indicated the existing fence which is approximately 15-feet back from the lot line with the north portion being approximately 5-feet below grade (based on the street elevation). He stated one of the conditions of approval set forth by the Bismarck Planning & Zoning Commission was that the grade at the new fence location be raised at least as high as the curb. He explained the problem in meeting that condition lies with the placement of the fence 15-feet back as required. Raising the grade 15-feet back would completely change the drainage pattern that currently exists on the property. Also, on the north end of the property, positioning the fence back 15-feet would require encroaching into the usable space of the property 22-feet at a 3:1 slope. He summarized by saying that in locating the fence 7-feet off the property line, they are saving 4,000 cubic yards of fill material, keeping the same amount of usable space, and maintaining the existing drainage corridor. He noted that all the necessary screening and landscaping will still be provided if the fence is located 7-feet off the property line.

Mr. Ihmels questioned the current drainage on both ends of the property. Mr. Axtman explained how the proposed storm sewer will greatly improve the drainage of the area.

Mr. Conrad commented on the visibility factor with a new fence in place and Mr. Axtman stated a special committee had been formed to approve the color and material of the fence in order to improve the site appearance.

Mr. Ubl asked how far back the fence will be from the curb and Mr. Axtman replied 23-feet. Mr. Heier asked the current distance and Mr. Axtman said approximately 30-feet.

Mr. Ihmels questioned the existence of a sidewalk and Mr. Axtman stated a new sidewalk will be installed and there will be two rows of trees, with burr oak between the sidewalk and curb and also a row of coniferous trees to provide additional screening.

The following findings were provided:

1. The need for a variance is based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the MA zoning classification.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is the minimum variance that will accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance; however, it is doubtful that it would be injurious to the neighborhood or otherwise detrimental to the public welfare.

MOTION: A motion was made by Mr. Ubl to approve the request for the variance to reduce the front yard setback from 15-feet to 7-feet. The motion was seconded by Mr. Conrad, and with all members voting in favor, the motion was passed.

ADJOURNMENT

There being no further business, Mr. Ihmels declared the meeting of the Bismarck Board of Adjustment adjourned to meet again on April 7, 2011.

Respectfully Submitted,



Kim Riepl
Recording Secretary

APPROVED:



Michael Marback, Chair